



# THE BANKRUPTCY ADVISOR



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## UPGRADE TO CM/ECF SYSTEM SCHEDULED

The U.S. Bankruptcy Court for the Northern District of Florida will be upgrading to version 3.3 of the CM/ECF system during the weekend of March 14-15, 2009. The electronic filing system will be unavailable beginning approximately 7:00 a.m. on Saturday, March 14 and should be fully restored by 11:00 p.m. Sunday, March 15.

The majority of the changes in the new version affect only trustees and pertain to statistical reporting under new rules enacted to fulfill requirements of the Bankruptcy Reform Act of 2005. There are also some new and enhanced features designed to assist all electronic filers. Some of the changes include:

- Joint Debtor Disposition

Currently, CM/ECF tracks only one set of data items for the discharge, dismissal and disposition of a bankruptcy case. Under the new version, these items will be recorded for each debtor in a joint case. This will allow the disposition of each debtor in a joint debtor case to be visible on docket reports and elsewhere in the system.

- Collection of Additional Data Elements at Case Opening

Additional data will be collected during the case opening process which will enable the Executive Office of the U.S. Trustee to extract information required to be reported to Congress under BAPCPA. Users filing a new case in CM/ECF will notice a new screen in which data is to be input from certain schedules and from the means test form. If the information is not available at the time of filing, the attorney may submit this information using a new event located at: Bankruptcy > Other Misc. Documents > Update EOUST Stats.

Attorneys using petition software should find the process no more burdensome than the current case opening process. The information required for the new data fields is copied into CM/ECF automatically. You should contact your bankruptcy software vendor to insure your software is compatible with version 3.3 of CM/ECF.

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## UPGRADE TO CM/ECF SCHEDULED

- Trustee's Report of No Distribution

The Trustee's Report of No Distribution entry has been modified to meet mandated variations of the report. New text-only (paperless) docket entries have been created to specify those cases which were dismissed or converted or cases in which minimal funds were collected but returned to the debtor because the expense of administering the estate would exceed the amount received. Under the new version of CM/ECF, docket entries for the Report of No Distribution will include a statement of funds collected, if any.

- Queries and Reports

Case queries and some case reports will now have an option to search or run reports for open cases, closed cases, or both.

- Notice of Electronic Filing

Under the current version, only the name and email address is shown in the list of recipients receiving notice electronically, as well as the names of those not notified electronically. Under the new release, an attorney recipient also shows "on behalf of" and the type and name of the party represented. If multiple parties are represented, only the first one is shown from a list sorted by attorney last name.

- Associating Claims in Pleadings

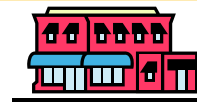
Under the current version, users are required to enter the claim number when filing certain items that reference a claim, such as an Objection to Claim. Under the new release, users will be presented with a list of claims that have been filed and you will select the claim to which the pleading should be associated.

A complete and comprehensive list of the changes noticeable to attorneys under the upgraded version of CM/ECF is available at: [http://pacer.psc.uscourts.gov/documents/cmecf/relnotes/bankruptcy\\_3.3.pdf](http://pacer.psc.uscourts.gov/documents/cmecf/relnotes/bankruptcy_3.3.pdf).

### SYSTEM AVAILABILITY

The CM/ECF system  
will be unavailable  
March 14-15 for  
maintenance and  
upgrades.

## What's A "Small Business"? And Do I Care?



The current version of the Voluntary Petition includes a section for a Chapter 11 debtor-in-possession to designate whether or not it is a "small business" as defined by the U.S. Bankruptcy Code. The required designation is a change from what existed prior to BAPCPA when debtors could elect to be treated as a small business.

The definition of "small business" includes a requirement that the business not have debts in excess of two million dollars. Other criteria exists and attorneys should review 11 U.S.C. 101(51D) before filing to make sure their client qualifies. The correct designation is important because many procedural aspects are associated with the designation including deadlines, the manner in which the Disclosure Statement is filed, and the role the U.S. Trustee performs in the administration of the case.

## ECF Essentials

### New or Modified Filing Events\*

Update EOUST Stats

New Event — Use this event to update to update statistical information in schedules and means test calculations

Ch 7 Debtor's Statement of Temp Exclusion from Means Test re: 707(b)(2)(D)(ii) - Paperless Event

New Event

Statement of Debtor's Release from Active Duty

New Event

*\*Due to the new Search feature included in our latest CM/ECF upgrade (August 2008), we will no longer provide the location of each of the new filing events in this list.*



## NATIONAL GUARD AND RESERVISTS DEBT RELIEF ACT

The National Guard and Reservists Debt Relief Act of 2008 provides a temporary exclusion from the bankruptcy means test for National Guardsmen and Reservists called to a minimum of 90 days active duty or homeland defense activity after September 11, 2001. The amendments to Section 707(b)(2)(D) of the Bankruptcy Code apply only with respect to cases commenced under Title 11 of the United States Code in the three year period beginning on the effective date of the Act.

On November 19, 2008 the Judicial Conference approved an amendment to Official Form 22A, Statement of Current Monthly Income and Means Test Calculation, and new Interim Rule 1007-I. As amended, Form 22A includes a new Part 1C in which qualifying debtors could invoke the exclusion.

1C	<p><input type="checkbox"/> Declaration of Reservists and National Guard Members. By checking this box and making the appropriate entries below, I declare that I am eligible for a temporary exclusion from means testing because, as a member of a reserve component of the Armed Forces or the National Guard</p> <p style="margin-left: 40px;">a. <input type="checkbox"/> I was called to active duty after September 11, 2001, for a period of at least 90 days and</p> <p style="margin-left: 80px;"><input type="checkbox"/> I remain on active duty /or/</p> <p style="margin-left: 80px;"><input type="checkbox"/> I was released from active duty on _____, which is less than 540 days before this bankruptcy case was filed;</p> <p style="margin-left: 80px;">OR</p> <p style="margin-left: 40px;">b. <input type="checkbox"/> I am performing homeland defense activity for a period of at least 90 days /or/</p> <p style="margin-left: 80px;"><input type="checkbox"/> I performed homeland defense activity for a period of at least 90 days, terminating on _____, which is less than 540 days before this bankruptcy case was filed.</p>
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Because the temporary exclusion expires 540 days after the debtor is released from active duty or is no longer performing homeland defense activities, the exclusion could expire while a Chapter 7 debtor's case is pending. To ensure proper case processing timelines and appropriate noticing by the clerk, debtors and/or their attorneys are required to inform the court immediately upon the release of the debtor from active duty or homeland defense activities. To facilitate compliance with this requirement, the Northern District of Florida has created a new paperless docket event, "Statement of Debtor's Release from Active Duty." This event is found in the "Other Misc Documents" category in CM/ECF.



## NEW METHOD OF SUBMITTING PROPOSED ORDERS INTRODUCED



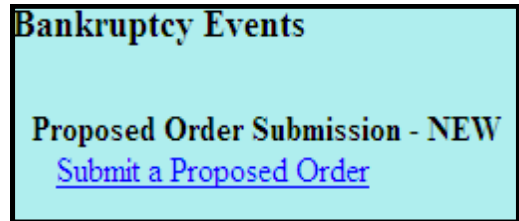
A new method of submitting proposed orders is now available to registered users of the CM/ECF system. A link located under the Bankruptcy heading allows attorneys to submit orders through the CM/ECF system without opening a separate email application.

The new link opens an order submission portal which sends proposed orders to the Clerk's Office using a module of the ECF Central tool bar created by court staff. You will need to make sure your pop-up blockers are turned off for the link to work. Users can check a box to receive confirmation that the proposed order was received by the Clerk's Office. You are not required to have ECF Central installed on your computer to use the new system. Those individuals who are registered users of ECF Central can also save archived proposed orders sent to the Clerk's Office for later access.

The system has a few enhancements to assist the filer in making sure the proposed order is submitted correctly. After entering the case number, the name of the debtor will automatically become populated in the correct field used for the subject line. When entering the document number to which the order relates, the "order regarding" field will automatically populate to the document number in ECF. This will allow the user to view a summary of the document to which the order will be linked once it has been signed and entered.

Using the new order submission portal will also help the Clerk's Office staff process the proposed orders more rapidly. The information contained in the data fields is formatted and configured behind the scenes to enable Case Administrators to quickly identify orders for cases they manage and to relate the order to the correct docket entry.

The order submission portal also provides users with a link to download the full free version of ECF Central to take advantage of the order archive and other enhanced features.



Link for submitting proposed order in ECF

Order submission portal of ECF Central



## DON'T FORGET...

If you are sending a proposed order through a regular email application, the email address for all proposed orders has changed. Orders should be sent to:

**Orders@flnb.uscourts.gov**

## NOMINATIONS SOUGHT FOR BANKRUPTCY BAR OFFICER POSITION

The Northern District of Florida Bankruptcy Bar Association is seeking nominations to fill the position of Treasurer and President-Elect. The vacancy comes as a result of the sad and untimely death of Hoke Smith.

To nominate yourself or someone else, please email Allen Turnage at: [attyallen@embarqmail.com](mailto:attyallen@embarqmail.com). Nominations should be submitted no later than March 20, 2009.

## FORM B201 REVISED

An amendment to Director's Procedural Form B201 (*Notice to Consumer Debtors*) became effective December 1, 2008. Form B201 was amended to advise that Rule 4002 requires the debtor to notify the court of any changes in the debtor's address. The current form is available under the "**Forms**" tab of the court's web site.

## Save The Date



The Northern District of Florida  
Bankruptcy Bar Association  
has scheduled its annual  
Bankruptcy Practice & Procedure Seminar  
for  
**October 9, 2009**  
at the  
Hilton Sandestin Beach Resort  
in Destin, Florida.  
For additional information, please email  
Allen Turnage at  
**[attyallen@embarqmail.com](mailto:attyallen@embarqmail.com)**

## COURT USER SURVEY

As part of our ongoing commitment toward providing the highest level of public service possible, the U.S. Bankruptcy Court for the Northern District of Florida conducts an annual survey of approximately 1000 registered users of the CM/ECF system. Participants are selected at random and asked to complete a brief on-line questionnaire designed to assess the level of satisfaction with the CM/ECF system as well as other services and products offered by the Office of the Clerk.

The most recent survey was conducted from February 4 to February 24, 2009. The results are being analyzed by administrative staff at the Clerk's Office to better understand the needs and concerns of members of the bar and to improve the quality of the customer service and products for those who practice in our court.

We sincerely appreciate those of you who took time from your busy day to participate in the survey. If you were unable to participate for whatever reason, we would still like to hear from you. Your feedback is always welcome by contacting Kevin Davis at 850-435-8473 or [Kevin\\_Davis@flnb.uscourts.gov](mailto:Kevin_Davis@flnb.uscourts.gov).

# THE CLERK'S CORNER

By: Bill Blevins, Clerk of Court



## Suggestions to modify the LOCAL RULES are being accepted

**March 16 – April 10, 2009**

A local rules revision cycle has been initiated in conjunction with the national rule changes being implemented to include the new time/deadline computation process as well as to make other changes and/or revisions that are suggested.

The first step in this process is the submittal of additional suggestions and recommended changes to Bill Miller, the chair of the local rules committee, from **March 16 through April 10**. This can be accomplished by sending him an e-mail with your suggestion(s), including any proposed language, to:

**billmillerlaw@gmail.com**

Items submitted by the deadline will be compiled into a package for Judge Killian to review. Approved items will be provided to the bar for comment in June with a public review period to follow in August. The planned effective date of the new rules will be December 1.

In addition to time computation and national rule related changes that will be made, other initial recommendations already on the "list" involve development of standardized language for negative notices and incorporation of recently suggested mortgage based claims in Chapter 13 cases.

### Associated Links:

#### —Summary of suggested local rule changes

Link: [http://www.flnb.uscourts.gov/documents/court\\_info/local\\_rules/proposed\\_local\\_rules\\_summary\\_of\\_changes\\_2009.pdf](http://www.flnb.uscourts.gov/documents/court_info/local_rules/proposed_local_rules_summary_of_changes_2009.pdf)

#### —DRAFT FRBP 3001 and 3002.1 and memo of Advisory Committee on Bankruptcy Rules re: Mortgage Payments in Chapter 13 Cases

Link: [http://www.flnb.uscourts.gov/documents/court\\_info/local\\_rules/local\\_rule\\_3001\\_3002.1.pdf](http://www.flnb.uscourts.gov/documents/court_info/local_rules/local_rule_3001_3002.1.pdf)

#### —Excerpt from Committee on Rules and Practice Report - Summary of Time Computation and Other National Rule/Form Changes (effective 12/1/09)

Link: [http://www.flnb.uscourts.gov/documents/court\\_info/local\\_rules/rules\\_committee\\_time\\_comp.pdf](http://www.flnb.uscourts.gov/documents/court_info/local_rules/rules_committee_time_comp.pdf)

#### —Florida Middle Local Rule 2002-4 – Negative Notice Procedure

Link: [http://www.flnb.uscourts.gov/documents/court\\_info/local\\_rules/flm\\_lr\\_2002-4.pdf](http://www.flnb.uscourts.gov/documents/court_info/local_rules/flm_lr_2002-4.pdf)

#### —Local Rule Committee Members

Link: [http://www.flnb.uscourts.gov/documents/court\\_info/local\\_rules/local\\_rules\\_committee\\_2009.pdf](http://www.flnb.uscourts.gov/documents/court_info/local_rules/local_rules_committee_2009.pdf)



## COURT AWARDED GRANT FOR *ECF CENTRAL*

The U.S. Bankruptcy Court for the Northern District of Florida was selected to receive a grant from the *Edwin L. Nelson Local Initiatives Program* for development of ECF Central. The application is one of four grant recipients approved by the Administrative Office of the Courts.

ECF Central is a locally developed, web-based "tool bar" designed for attorneys in the Northern District of Florida. It is an interactive and comprehensive resource for bankruptcy practitioners containing numerous modules to assist ECF users including: case alerts, contacts, order submission portal, court calendar and a library of manuals and other documentation. The grant, which was awarded in January 2009, will enable the court to create additional modules and enhancements.

The court will be collaborating on the project with the U.S. Bankruptcy Court for the Southern District of Alabama as well as the U.S. District Courts in the Northern District of Florida and Southern District of Alabama. The collaborating courts will assist in the design, development and testing of a product that will be suitable as a national application for CM/ECF users in all federal courts.

The product was first released for testing by local attorneys in October 2008. The current version is now available for all attorneys to use and can be downloaded from the court's web site.

### HELP DESK HINTS...

**Selecting the Correct PDF:** In order to ensure that the correct document is attached to your docket entry, always view the document before attaching. You can accomplish this by right-clicking on the document selected and selecting "Preview" or "Open with Acrobat." This will ensure that you are selecting the correct PDF document to attach.



# ECF CENTRAL



ECF Central can be installed on any computer with internet access and is designed to allow the user to access resources while actively utilizing the electronic case filing (ECF) application.

To download ECF Central, visit our download center located under the "**For Our Attys**" tab at [www.flnb.uscourts.gov](http://www.flnb.uscourts.gov).

## MODIFIED MEANS TEST FORM

After implementation of BAPCPA, the court began requiring Official Form 22A (Chapter 7 Means Test form) in all individual consumer Chapter 7 cases. In December 2008, a new Official Form 22A was introduced in which debtors can claim an exclusion for all non-consumer debtors by checking a box in Section 1B of the new form.

**Non-consumer Debtors.** If your debts are not primarily consumer debts, check the box below and complete the verification in Part VIII. Do not complete any of the remaining parts of this statement.

☐ Declaration of non-consumer debts. By checking this box, I declare that my debts are not primarily consumer debts.

Accordingly, all individual Chapter 7 debtors should file an Official Form 22A whether they have primarily consumer or business debts.

Those debtors claiming an exclusion to the means test calculation should check the appropriate box, complete the verification, and file the document without completing the remaining sections. The new Official Form is available under the "Forms" tab of the court's web site.



# Mortgage Loss Mitigation Program

An organization known as Default Mitigation Management, LLC (DMM) has developed a national program to assist attorneys with submitting loss mitigation and modification proposals on behalf of their clients. According to a press release issued by DMM, the organization is a special loss mitigation provider for over 35 loan servicers and provides an electronic portal for exchanging information and communicating with loan servicers regarding potential loss mitigation options. The program was developed in conjunction with the Mortgage Issues Liaison Committee of the National Association of Chapter Thirteen Trustees. Additional information about the program can be obtained at the DMM web site, which is [www.dclmwp.com](http://www.dclmwp.com).

*Please note that the material contained in this article is provided for informational purposes only and should not be construed as an endorsement of services offered by DMM or any other entity.*

## IN THE SPOTLIGHT



### LUKE ADAMS—5 YEARS

Beginning federal service in 2004 as the Automation Support Specialist with our court, Luke's duties entailed maintaining all servers and systems required to support day to day court operations. During that time, however, he also began application development and produced local programs such as the opinion search tool, the HelpCenter and various other internally used web and Window's applications. In March 2005, Luke was promoted to Program Development Specialist and began work developing applications such as ECF Central and PublicCalendar. This past January, we were awarded a grant to develop ECF Central as a nationally distributed product. "I have really enjoyed my time with the courts and appreciate the great interaction I have had with many of you. I look forward to continuing this relationship and working with our public to produce great products!"



### WADE FELTMAN—5 YEARS

Wade Feltman joined our court in April 2004 as an Automation Support Specialist in the Tallahassee office. Over the years, his duties have expanded from primarily desktop support to include server and network support as well as development and website design. Wade is an Alabama native and a graduate of Auburn University.

## Cool Feature Alert!



You can create a bookmark for any menu item in CM/ECF. This means you can put your most-used items on your browser's toolbar or in the bookmark menu, making it easier to access them for future use.



If you have topics you'd like to see covered in future editions of ***The Bankruptcy Advisor***, we'd love to hear from you! Email your comments to [Julie\\_Gibson@flnb.uscourts.gov](mailto:Julie_Gibson@flnb.uscourts.gov) and we'll do our best to incorporate your suggestions into future issues.



**FLNB RESOURCES**

Rev. 12/01/08

Cases in the Northern District of Florida are no longer assigned to Case Administrators by terminal digit or by division. Cases are randomly assigned to Case Administrators throughout the district shortly after a new case is filed. The name of the Case Administrator who manages a particular case can be found at the top of the docket report in CM/ECF. Contact information for each Case Administrator is as follows:

Lisa Davis	Lisa_Davis@flnb.uscourts.gov	(850) 521-5010
Marsha Mirra	Marsha_Mirra@flnb.uscourts.gov	(850) 435-8478
Ann Kennington	Ann_Kennington@flnb.uscourts.gov	(850) 435-8480
Monica Broussard	Monica_Broussard@flnb.uscourts.gov	(850) 435-8432
Latonia Isom	Latonia_Isom@flnb.uscourts.gov	(850) 521-5012
Claire Bikowitz	Claire_Bikowitz@flnb.uscourts.gov	(850) 521-5016

*A new link has been added to CM/ECF for sending proposed orders. See related article on page four.*

*The Clerk's Office phones are answered from 9:00 a.m. until 4:00 p.m., eastern time, Monday through Friday, except federal holidays. Please feel free to call or email the Case Administrators with your questions.*

**HELP DESK**

CMECF\_helpdesk@flnb.uscourts.gov  
888-765-1752

Please visit us on the web at [www.flnb.uscourts.gov](http://www.flnb.uscourts.gov).

**New Bankruptcy Case Filings by Month**